

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CESAR GOMEZ, on behalf of himself and all  
others similarly situated,

Plaintiffs,

- against -

EL RANCHO DE ANDRES CARNE DE TRES  
INC., d/b/a ANDRES CARNE DE TRES,  
HAROLD VARGAS, and DIANA VARGAS,

Defendants.

-----X  
AMON, Chief United States District Judge.

NOT FOR PUBLICATION  
**MEMORANDUM & ORDER**  
12-CV-01264 (CBA) (MDG)

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ MAY 31 2013 ★

**BROOKLYN OFFICE**

Cesar Gomez, on behalf of himself and all others similarly situated, filed this action pursuant to the Fair Labor Standards Act, 29 U.S.C. § 201 et seq. Since their counsel moved to withdraw in August 2012, defendants El Rancho De Andres Carne De Tres Inc. d/b/a Andres Carne De Tres, Diane Vargas and Harold Vargas have consistently failed to defend this action. Despite repeated warnings that failure to comply with the Court's directives could result in striking their answers and entry of default judgment against them, defendants failed to produce Court-ordered discovery, to appear at a conference, or to pay sanctions. In addition, no new counsel has entered a notice of appearance on behalf of defendants, nor has any defendant communicated with the Court or plaintiffs' counsel since August 2012. Faced with this noncompliance, Magistrate Judge Marilyn Go's issued a Report and Recommendation ("R&R") on February 12, 2013 recommending that the Court strike defendants' answers and enter default against them.

In line with their apparent lack of interest in defending this action, defendants have not objected to the R&R, and the time for doing so has passed. Plaintiffs have also not filed any objections. When deciding whether to adopt a R&R, a district court "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). To accept those portions of the R&R to which no timely objection has been made, “a district court need only satisfy itself that there is no clear error on the face of the record.” Jarvis v. N. Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted). The Court has reviewed the record and, finding no clear error, hereby adopts Magistrate Judge Go’s R&R as the opinion of the Court.

Accordingly, the Court strikes the answers of defendants El Rancho De Andres Carne De Tres Inc. d/b/a Andres Carne De Tres, Diane Vargas and Harold Vargas and enters default against them. The Court refers any subsequent request by plaintiffs for damages and other relief in this case to Magistrate Judge Go for report and recommendation.

SO ORDERED.

Dated: Brooklyn, New York

May 30, 2013

/s/Carol Bagley Amon

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Carol Bagley Amon  
Chief United States District Judge